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*Committed to Excellence*

***Phillips Law Firm, Inc.***

***9521 Montgomery Road***

***Cincinnati, OH 45242***

**VIA FEDEX OVERNIGHT DELIVERY**

April 19, 2006

Dr. Noble A-W Maseru  
Health Commissioner  
Board of Health of the City of Cincinnati  
Cincinnati Health Department  
3101 Burnet Avenue, Suite 111  
Cincinnati, OH 45229

Christopher Jones  
Director  
Ohio Environmental Protection Agency  
122 South Front Street  
Columbus, OH 43215

Alan Walts  
Title VI Coordinator  
U.S. Environmental Protection Agency  
Region V  
77 W. Jackson Blvd.  
Chicago, IL 60604

Ms. Karen Higginbotham  
Acting Director  
Office of Civil Rights  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Stop 1201 A  
Washington, DC 20460

Stephen G. Pressman  
Associate General Counsel  
Civil Rights Law Office (MC2311)  
U.S. Environmental Protection Agency  
Office of General Counsel  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

RE: Environmental Justice Complaint

Dear Dr. Maseru, Mr. Jones, Mr. Walts, Ms. Higginbotham, and Mr. Pressman:

Enclosed is a Complaint Form for your use. Please consider this information as a formal environmental justice complaint related to the facts set forth in the complaint form. If you have any questions, or if you need additional information, please feel free to contact me and I will provide whatever assistance or information that I can regarding the matter.

Sincerely,

  
John H. Phillips

Cc: Marily Evans, Executive Director  
Communities United For Action

**RECEIVED**  
4/20/06  
om



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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## **ENVIRONMENTAL JUSTICE COMPLAINT FORM**

The purpose of this form is to assist you in filing a complaint with the Coordination and review Section. You are not required to use this form; a letter with the same information is sufficient. However, the information requested in the items marked with a star (\*) must be provided, whether or not the form is used.

1.\* State your name and address.

Name: John H. Phillips

Address: 9521 Montgomery Road

Cincinnati, OH Zip 45242

Telephone No:

Work: (513) 985-2500

2.\* Person(s) discriminated against, if different from above:

Name: [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED]; [REDACTED]  
[REDACTED]

Address: The addresses of the above-named individuals are found in the attached consent/release forms, which are attached as Exhibit "A".

Please explain your relationship to this person(s).

John H. Phillips is the attorney for Communities United For Action ("CUFA"), which represents the Winton Hills community and the interests of the above-named persons who have been discriminated against.

3.\* Agencies and departments or programs that discriminated:

A. Name: Ohio Environmental Protection Agency ("OEPA")

Any individual if known: \_\_\_\_\_

Address: 122 Front Street

Columbus OH Zip 43215

Telephone No: (614) 644-3020

B. Name: City of Cincinnati Health Department

Any individual if known: \_\_\_\_\_

Address: 3101 Burnet Avenue

Cincinnati, OH Zip 45229

Telephone No: (513) 357-7291

4A.\* Non-employment: Does your complaint concern discrimination in the delivery of services or in other discriminatory actions of the department or agency in its treatment of you or others? YES. If so, please indicate below the base(s) on which you believe these discriminatory actions were taken (e.g., "Race: African American" or "Sex: Female").

X Race/Color: African-American

\_\_\_\_ National origin: \_\_\_\_\_

\_\_\_\_ Sex: \_\_\_\_\_

\_\_\_\_ Religion: \_\_\_\_\_

\_\_\_\_ Age: \_\_\_\_\_

\_\_\_\_ Disability: \_\_\_\_\_

X Low Income: Area Below Poverty Level

4B.\* Employment: Does your complaint concern discrimination in employment by the department or agency? No

5. What is the most convenient time and place for us to contact you about this complaint?

Monday through Friday, 9AM - 5PM. Phone (513) 985-2500

6. If we will not be able to reach you directly, you may wish to give us the name and phone number of a person who can tell us how to reach you and/or provide information about your complaint:

Name: Phillips Law Firm, Inc.

Telephone No: (513) 985-2500

7. If you have an attorney representing you concerning the matters raised in this complaint, please provide the following:

Name: John H. Phillips

Address: 9521 Montgomery Road

Cincinnati, OH Zip 45242

Telephone No: (513) 985-2500 Fax: (513) 985-2503

8.\* To your best recollection, on what date(s) did the alleged discrimination take place?

Earliest date of discrimination: October 25, 2005

Most recent date of discrimination: December 23, 2005

9. Complaints of discrimination must generally be filed within 180 days of the alleged discrimination. If the most recent date of discrimination, listed above, is more than 180 days ago, you may request a waiver of the filing requirement. If you wish to request a waiver, please explain why you waited until now to file your complaint.

Attached hereto as Exhibit B is a copy of the Initial Solid Waste Facility License issued by the Ohio Environmental Protection Agency on October 25, 2005. This license was issued less than 180 days ago from the date that this complaint is being filed.

The second instance of discrimination is the renewal of this license, which occurred just two months after the initial issuance of the above license. Attached hereto as Exhibit C is a copy of the license issued on December 23, 2005. Again, this is less than 180 days from the date of the filing of this Complaint.

10.\* Please explain as clearly as possible what happened, why you believe it happened, and how you were discriminated against. Indicate who was involved. Be sure to include how

other persons were treated differently from you. (Please use additional sheets if necessary and attach a copy of written materials pertaining to your case.)

Waste Management of Ohio, Inc. ("WMO") has built a new waste transfer facility in the Winton Hills community, an area predominantly occupied by minorities and low income individuals. The waste transfer station was put into this area with the expectation that these low income and minority people would have little or no hope of being able to defend their constitutionally-protected civil rights. WMO received its first license to operate on October 25, 2005, from Ohio EPA. Almost immediately after receiving its initial license to operate from Ohio EPA, WMO received its renewal of the license on December 23, 2005.

Environmental justice concerns were studied for this location relative to the placement of a Waste Transfer Station in the Winton Hills Community, but are being specifically ignored by Ohio EPA, and are being specifically ignored by the City of Cincinnati Health Department, which holds the licensing hearings on behalf of, as agent for, and under contract with, the Ohio Environmental Protection Agency. Accordingly, both Ohio EPA, and the City of Cincinnati Health Department are violating Title VI of the Civil Rights Act of 1964.

The issuance of the permits to operate by Ohio EPA constitutes a violation of the civil rights of the citizens of the Winton Hills community, as guaranteed by the United States Constitution. Communities United for Action ("CUFA"), on behalf of the Winton Hills Community, has fought to stop the installation of this facility in the poor minority neighborhood, and has fought to prevent the operation of the facility in this neighborhood. To date, although licensed, the facility has not operated as a solid waste transfer facility.

The City of Cincinnati has considered environmental justice issues to be important in the selection of a waste transfer facility. Despite the City of Cincinnati's efforts, WMO has convinced Ohio EPA and the City of Cincinnati Health Department that it is not necessary to consider environmental justice issues when locating or licensing a waste transfer station.

Exhibit D is a report dated 4/23/97 from the City of Cincinnati recommending that environmental justice issues should be a priority for the city. Specifically, Page 4 of the document includes a recommendation from the City Manager for the adoption of an Environmental Justice program. Exhibit E is a report dated 5/15/01 in which the City of Cincinnati included consideration of environmental justice issues into its site selection process for a solid waste transfer station. Attention is specifically drawn to Page 8 of this document, in which the Winton Hills community was **specifically excluded** as a potential site for a solid waste transfer station, due to environmental justice concerns. Exhibit F is a resolution dated 2/21/02 from the City of Cincinnati City Council urging the City of Cincinnati Board of Health to deny WMO a license to operate a solid waste facility in Winton Hills due to "serious concerns as to whether Waste Management can operate its facilities in full compliance with environmental regulations".

As noted in Exhibits D through F, the City of Cincinnati is crying out for Environmental Justice in its communities. Having operated a landfill in the Winton Hills neighborhood for over twenty years, WMO knew that it was operating in a low income African-American community. Despite knowing that the Winton Hills community was a low income African-American community, and despite knowing that the City of Cincinnati had concluded that Winton Hills was not a desirable location for a waste transfer station due to environmental justice concerns, WMO plunged forward with a callous disregard for the civil rights of minorities and underprivileged persons in the community. Nevertheless, neither Ohio EPA nor its authorized agent, the City of Cincinnati Health Department, have considered Environmental Justice in the siting or the licensing of the WMO transfer station. The citizens of Winton Hills community have suffered a vital blow to their plans for obtaining a more livable community in the future.

11. The laws we enforce prohibit recipients of Department of Justice funds from intimidating or retaliating against anyone because he or she has either taken action or participated in action to secure rights protected by these laws. If you believe that you have been retaliated against (separate from the discrimination alleged in #10), please explain the circumstances below. Be sure to explain what actions you took which you believe were the basis for the alleged retaliation.

N/A

12. Please list below any persons (witnesses, fellow employees, supervisors, or others), if known, whom we may contact for additional information to support or clarify your complaint.

Name	Address	Area Code/Telephone Numbers
Marilyn Evans (CUFA Exec. Dir.)	<u>[REDACTED]</u>	<u>[REDACTED]</u>
	<u>[REDACTED]</u>	

13. Do you have any other information that you think is relevant to our investigation of your allegations?

Yes, Exhibits G, H, I and J attached hereto are maps of the City of Cincinnati showing the poverty areas of the City of Cincinnati and the minority areas of the City of Cincinnati. Note that Winton Hills is located in both a minority and poverty stricken area.

14. What remedy are you seeking for the alleged discrimination?

That any permit issued by OEPA to Waste Management of Ohio to install a waste transfer facility in the Winton Hills community be rescinded and that the solid waste transfer station never be allowed to operate in this predominately minority and low income area. Also, any and all other relief to which the Winton Hills community is entitled pursuant to this proceeding, including but not limited to, actual damages, injunctive relief, legal fees and expenses.

15. Have you (or the person discriminated against) filed the same or any other complaints with other offices of the Department of Justice (including the Office of Justice Programs, Federal Bureau of Investigation, etc.)?

No



16. Have you filed or do you intend to file a charge or complaint concerning the matters raised in this complaint with any of the following?

No

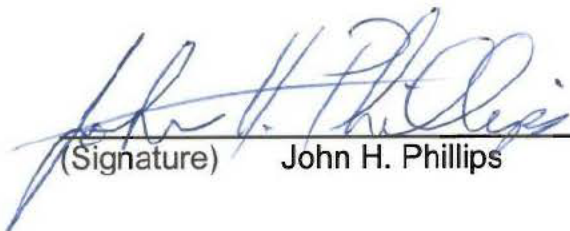
17. If you have already filed a charge or complaint with an agency indicated in #16, above, please provide the following information (attach additional pages if necessary):

N/A

18. While it is not necessary for you to know about aid that the agency or institution you are filing against receives from the Federal government, if you know of any Department of Justice funds or assistance received by the program or department in which the alleged discrimination occurred, please provide that information below.

Ohio is an agreement state with the U.S. EPA, and as such Ohio EPA receives Federal Funds for their operations. The City of Cincinnati Health Department also receives Federal Funds, and is also a licensee of the Ohio EPA, which funnels Federal Funds to the City of Cincinnati Health Department for implementing certain programs.

19.\* We cannot accept a complaint if it has not been signed. Please sign and date this complaint form below.

  
(Signature) John H. Phillips

4/19/06  
(Date)

20. How did you learn that you could file this complaint?

Legal research; Internet.

21. If your complaint has already been assigned a DOJ complaint number, please list it here:

N/A



### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served as follows:

- ☐ hand delivery,
- ☐ regular U.S. Mail, postage prepaid, to the addresses listed below
- ☐ facsimile to the fax number listed below
- ☐ email to the email address listed below
- ☒ other: FedEx – next day delivery

this 19th day of April, 2006, upon the following:

Dr. Noble A-W Maseru  
Health Commissioner  
Board of Health of the City of  
Cincinnati  
Cincinnati Health Department  
3101 Burnet Avenue, Suite 111  
Cincinnati, OH 45229

Christopher Jones  
Director  
Ohio Environmental Protection  
Agency  
122 South Front Street  
Columbus, OH 43215

Alan Walts  
Title VI Coordinator  
U.S. Environmental Protection  
Agency Region V  
77 W. Jackson Blvd.  
Chicago, IL 60604

Ms. Karen Higginbotham  
Acting Director  
Office of Civil Rights  
U.S. Environmental Protection  
Agency  
1200 Pennsylvania Avenue, NW  
Mail Stop 1201 A  
Washington, DC 20460

Stephen G. Pressman  
Associate General Counsel  
Civil Rights Law Office (MC2311)  
U.S. Environmental Protection  
Agency  
Office of General Counsel  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460



A handwritten signature in blue ink, appearing to be 'A. Walts', is written over a horizontal line.